

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 NOE ANGE GARCIA,

4 Plaintiff

5 v.

6 DURAN, et. al.,

7 Defendants

Case No. 2:19-cv-00270-JAD-DJA

Order Dismissing and Closing Case

ECF No. 1-1

8 This action began with a *pro se* civil rights complaint filed pursuant to 42 U.S.C. § 1983
9 by a state prisoner. On August 16, 2019, this Court issued an order directing Plaintiff to file his
10 updated address with this Court within thirty (30) days.¹ The thirty-day period has now expired,
11 and Plaintiff has not filed his updated address or otherwise responded to the Court's order.

12 District courts have the inherent power to control their dockets and "[i]n the exercise of
13 that power, they may impose sanctions including, where appropriate . . . dismissal" of a case.² A
14 court may dismiss an action, with prejudice, based on a party's failure to prosecute an action,
15 failure to obey a court order, or failure to comply with local rules.³ In determining whether to
16 dismiss an action for lack of prosecution, failure to obey a court order, or failure to comply with
17 local rules, the court must consider several factors: (1) the public's interest in expeditious
18

19 ¹ ECF No. 5.

20 ² *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986).

21 ³ See *Ghazali v. Moran*, 46 F.3d 52, 53–54 (9th Cir. 1995) (dismissal for noncompliance with
22 local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260–61 (9th Cir. 1992) (dismissal for failure to
23 comply with an order requiring amendment of complaint); *Carey v. King*, 856 F.2d 1439, 1440–
41 (9th Cir. 1988) (dismissal for failure to comply with local rule requiring *pro se* plaintiffs to
keep court apprised of address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir.
1987) (dismissal for failure to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421,
1424 (9th Cir. 1986) (dismissal for lack of prosecution and failure to comply with local rules).

1 resolution of litigation; (2) the court’s need to manage its docket; (3) the risk of prejudice to the
2 defendants; (4) the public policy favoring disposition of cases on their merits; and (5) the
3 availability of less drastic alternatives.⁴

4 In the instant case, the first two factors, the public’s interest in expeditiously resolving
5 this litigation and the court’s interest in managing the docket, weigh in favor of dismissal. The
6 third factor, risk of prejudice to defendants, also weighs in favor of dismissal, since a
7 presumption of injury arises from the occurrence of unreasonable delay in filing a pleading
8 ordered by the court or prosecuting an action.⁵ The fourth factor – public policy favoring
9 disposition of cases on their merits – is greatly outweighed by the factors in favor of dismissal
10 discussed herein. Finally, a court’s warning to a party that his failure to obey the court’s order
11 will result in dismissal satisfies the “consideration of alternatives” requirement.⁶ The Court’s
12 order requiring plaintiff to update his address within 30 days expressly stated: “It is further
13 ordered that, if Plaintiff fails to comply with this order, the Court shall dismiss this case without
14 prejudice.”⁷ Thus, plaintiff had adequate warning that dismissal would result from his
15 noncompliance with the Court’s order.

16 It is therefore ordered that **THIS ACTION IS DISMISSED WITHOUT PREJUDICE**
17 based on plaintiff’s failure to file an updated address in compliance with this Court’s August 16,
18 2019, order; the application to proceed *in forma pauperis* [ECF No. 1-1] is **DENIED** as moot;

21 ⁴ *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423–24; *Malone*, 833 F.2d at 130;
22 *Ferdik*, 963 F.2d at 1260–61; *Ghazali*, 46 F.3d at 53.

23 ⁵ See *Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976).

⁶ *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132–33; *Henderson*, 779 F.2d at 1424.

⁷ ECF No. 5 at 2.

1 and the Clerk of Court is directed to ENTER JUDGMENT accordingly and CLOSE THIS
2 CASE.

3 Dated: September 30, 2019.

4 
5 _____
United States District Judge, Jennifer Dorsey